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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 28 January 2004 from the Permanent Mission of Uzbekistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Uzbekistan to the United Nations presents its compliments to the Chairman of the Committee and has the honour to transmit herewith the report submitted by the Government of the Republic of Uzbekistan in accordance with paragraph 6 of resolution 1455 (2003) of 17 January (see annex). The Permanent Mission would appreciate it if the present letter and its annex could be circulated as a document of the Security Council.

04-22400 (E) 180204 190204

Annex to the note verbale dated 28 January 2004 from the Permanent Mission of Uzbekistan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report of the Republic of Uzbekistan to the Security Council Committee established pursuant to resolution 1267 (1999) on the implementatior of Security Council resolution 1455 (2003)

In accordance with its foreign policy priorities, Uzbekistan firmly supports efforts by the international community to stem the threat of terrorism in all its manifestations and is an active party to multilateral agreements concerning various aspects of the campaign against terrorism.

Uzbekistan has acceded to all 12 United Nations Conventions relating to the suppression of manifestations of terrorism and the sources that support, finance, promote and organize it.

Uzbekistan has established, and is working to improve, the necessary legal basis to guarantee the effective suppression of any form of extremism and terrorism in its territory. The Act on Counter-terrorism adopted by the Republic of Uzbekistan in December 2000, establishes the responsibility of individuals and organizations for participation in terrorist activities. The Criminal Code, adopted by an Act of the Republic of Uzbekistan on 22 September 1994 (with amendments and annexes), contains several articles that directly stipulate criminal responsibility for terrorism.

Coercive measures are not the sole means used to combat the threat of terrorism in the Republic. A whole range of preventive and precautionary measures has been developed. In September 2000, the President of the Republic of Uzbekistan issued a Decree exonerating nationals of Uzbekistan who are misled into becoming members of terrorist groups.

Introduction

Information on the possible activities by Al-Qaida and Taliban operatives, as well as other persons and organizations associated with them, was disseminated among the relevant ministries and departments of the Republic of Uzbekistan.

In conformity with paragraphs 6 and 12 of Security Council resolution 1455 (2003), the Republic of Uzbekistan has submitted information under Security Council resolution 1373 (2001) in three reports.

Freeze on financial and economic assets

In conformity with paragraph 6 of Security Council resolution 1455 (2003), the lists received by the Republic of Uzbekistan from the relevant United Nations committees of persons and organizations whose funds, financial resources and assets are subject to a freeze have been sent to the National Security Service, the Ministry of the Interior, the State Customs Committee, the State Tax Committee and the Central Bank of the Republic of Uzbekistan.

To date, no persons or organizations whose funds, financial resources and assets are subject to a freeze by Member States have been identified in the territory of the Republic of Uzbekistan.

With regard to matters concerning the freeze on the financial assets of international terrorist organizations, the Central Bank of the Republic of Uzbekistan is regularly sent lists of terrorist organizations and persons involved in terrorism. The Central Bank, for its part, sends notices to all authorized banks of the Republic of Uzbekistan on the relevant measures to be adopted should assets of organizations and persons on those lists come to light.

Normative and legal basis

In accordance with the legislation of the Republic of Uzbekistan, money-laundering (the legalization of the proceeds of criminal activities) is a crime (article 243 of the Criminal Code of the Republic of Uzbekistan).

The financing of terrorism is a crime and is considered a terrorist activity (article 155 of the Criminal Code of the Republic of Uzbekistan).

Money-laundering matters (the legalization of the proceeds of criminal activities) are regulated by the Criminal Code (article 243). Such matters are also reaffirmed in the Act on narcotic drugs and psychotropic substances (article 41), and Decree No. 3127 of the President of the Republic of Uzbekistan of 9 May 2002 on measures for the gradual introduction of a system for the declaration of all personal income.

The Act of the Republic of Uzbekistan on counter-terrorism of 15 December 2000 enables Uzbekistan to prevent the recruitment in its territory of members of terrorist groups that plan to operate in the territory of the Republic of Uzbekistan and abroad in the following manner.

In conformity with article 5 of the Act, terrorist activities are prevented by a range of political, social and economic, legal and other preventive measures taken by State bodies, independent bodies and private associations, and by enterprises, institutions and organizations. In accordance with this article the following are prohibited:

- Terrorist propaganda;
- The establishment and operation of terrorist groups and organizations and the accreditation, registration and operation of legal entities, their branches (affiliates) and representatives (including foreign and international organizations), connected with terrorist activities;
- The entry into the Republic of Uzbekistan of foreign nationals and stateless persons connected with terrorist activities;
- The concealment of information and facts about the preparations for, or the carrying out of, terrorist acts.

Article 30 of the Criminal Code of the Republic of Uzbekistan states that persons who create or lead organized criminal groups or crime syndicates are liable for all crimes committed by the criminal organizations if they were intentionally involved in them. Organizers, instigators and accomplices bear the same liability as the perpetrators in accordance with this article of the Criminal Code.

In conformity with article 29 of the Act on counter-terrorism, the court decides if an organization is identified as a terrorist organization and is to be closed down.

In the event that an organization identified as terrorist is closed down, the property belonging to it is confiscated and becomes the property of the State.

In the event that a court of the Republic of Uzbekistan identifies an international organization (its branches, affiliates and representatives) registered outside the Republic of Uzbekistan as a terrorist organization, the activities of that organization (its branches, affiliates and representatives) are banned in the territory of the Republic of Uzbekistan and the organization (its branches, affiliates and representatives) is closed down and any property belonging to it (its branches, affiliates and representatives) in the territory of the Republic of Uzbekistan is confiscated and becomes the property of the State.

The failure by citizens to report any reliable information that they have about a serious crime or a particularly serious crime being planned or committed is a criminally punishable act (article 241 of the Criminal Code of the Republic of Uzbekistan). State administrative bodies, local government bodies, independent bodies, private associations, enterprises, institutions and organizations, officials and citizens render cooperation and the necessary assistance to government bodies that are involved in counter-terrorism (article 6 of the Act on counter-terrorism).

Article 243 of the Criminal Code of the Republic of Uzbekistan of 22 September 1994 provides for the punishment in the form of imprisonment for a period of from 5 to 10 years for the legalization of income derived from criminal activities (the transfer, conversion or exchange of property acquired as a result of criminal activities and the concealment or disguising of the actual nature, source, location, disposition and transfer of the original rights to property or its ownership if such property has been acquired as a result of criminal activity).

In the event that an act is qualified as such, it should be borne in mind that funds to which a guilty party attempts to give a legal character must have been obtained through a criminal activity such as drug trafficking, sexual or other forms of exploitation, smuggling, the dissemination of pornographic publications, trade in arms and other articles taken out of free circulation, and other activities which, under the current Criminal Code, are regarded as crimes.

In cases where a person is guilty of giving a legal character to funds derived from a criminal activity, and at the same time deliberately transmits the funds to finance the activities of criminal organized armed groups, that act is, in the aggregate, classified as a crime under articles 242 (organized the organization of a criminal association) and 243 (the legalization of funds derived from a criminal activity) of the Criminal Code of the Republic of Uzbekistan.

Article 290 of the Code of Criminal Procedure of the Republic of Uzbekistan establishes the procedure for the attachment of the property of a suspect (accused, civil defendant) to enforce a sentence relating to a civil suit or other legal action involving property. The article reaffirms that when residential or business premises, irrespective of the form of ownership, are used for the commission of crimes — high treason, an attack on the constitutional structure or the President of the Republic of Uzbekistan, terrorism or sabotage or when such crimes are connected with premeditated murder, robbery, theft or other serious or particularly serious crimes — the premises in question are subject to attachment. Attachment entails serving notice

to the owner or proprietor of the ban on the disposal and, if necessary, use or confiscation of property and its transfer to the custody of other persons.

Subsequently, the court, taking into consideration the level of damage involved, when sentencing the accused, decides whether to alienate money and other valuables obtained through criminal means in accordance with article 211 of the Code of Criminal Procedure of the Republic of Uzbekistan.

On the closing down of an organization that is identified as a terrorist organization, property belonging to it is confiscated (article 29 of the Act on counter-terrorism), the instruments of the crime are subject to confiscation or, depending on the circumstances, destroyed, and the money obtained through criminal means is turned over to the State (article 211 of the Code of Criminal Procedure of the Republic of Uzbekistan).

The current legislation of the Republic of Uzbekistan does not provide for other financial penalties against legal entities and individuals in respect of crimes related to terrorist activities.

The implementation of requests for judicial assistance in the investigation into criminal matters or investigative procedures concerning the financing or other support of terrorist acts, the legal time frame is determined by the international agreements of the Republic of Uzbekistan or, failing that, by the legislation on criminal procedure of the Republic of Uzbekistan.

However, it should be noted that the current legislation on criminal procedure of the Republic of Uzbekistan does not provide for legal procedures allowing for the implementation of measures designed to freeze or seize funds obtained from illegal sources, including those used for the financing of terrorism. In that event, article 290 of the Code of Criminal Procedure of the Republic of Uzbekistan may not be applied.

In this connection, proposals are currently being prepared for amendments to the Criminal Code and the Code of Criminal Procedure of the Republic of Uzbekistan to allow for the implementation of the provisions of international legal documents, above all United Nations resolutions, concerning various aspects of the campaign against international terrorism.

The Oliy Majlis (Parliament) of the Republic of Uzbekistan is considering a bill on the declaration of the entire yearly income of individuals. In 2004, there are plans to consider a bill on measures to prevent the legalization of money obtained by illegal means and the financing of terrorist activities.

The heads of commercial banks and the heads of the executive offices of credit unions are required to meet professional standards, including standards with respect to their business and personal reputations (Act on the Central Bank and on credit unions, Statute No. 630 on the registration and licensing of banks of 11 February 1999 and Statute No. 1204 on the procedures of the Central Bank of the Republic of Uzbekistan for meeting professional standards for candidates recommended for the posts of managers and senior accountants at commercial banks and their affiliates, of 20 December 2003).

Given that the Republic of Uzbekistan is currently not a member of the Financial Action Task Force on Money Laundering (FATF), the relevant agencies of the Republic are studying the legislative acts of other States members of FATF.

Material related to money-laundering and the experience of States members of FATF are being examined in an effort to combat the financing of terrorism. In order to strengthen the system to counter money-laundering and the financing of terrorism, improvements are being made to the national legislation in those areas and efforts are being made to enhance the legal awareness and legal culture of the population.

In 2002, in accordance with its plan of action to combat terrorism and implement its current obligations in that sphere, Uzbekistan sent its responses to the FATF questionnaire about current laws, normative acts, organizations and measures on the suppression and prevention of money-laundering and the financing of terrorism.

Improving the legislation of Uzbekistan in the area of combating money-laundering requires additional resources, at the very least in connection with the creation of institutions responsible for the suppression and prevention of the laundering of funds obtained from criminal activities, the financing of their activities and the training of appropriate specialists. Technical and financial assistance from the countries, international organizations and structures concerned would undoubtedly help to hasten the implementation of those measures.

In the Republic of Uzbekistan laws are adopted by the Oliy Majlis (Parliament). In accordance with the national legislation, the decrees of the President of the Republic of Uzbekistan and the orders of the Cabinet of Ministers of the Republic of Uzbekistan, the ministries and departments, within their respective spheres of competence, adopt generally binding normative acts. The law enforcement organs of the Republic (the Procurator General's Office, the Department for the prevention of monetary and tax crimes, the Ministry of the Interior and the National Security Service), as well as other ministries and departments, in accordance with the laws and other normative acts that grant them the appropriate authority, ensure compliance with the legislation against money-laundering and the financing of terrorism.

Agencies of the Republic of Uzbekistan involved in efforts to combat the legalization of funds derived from criminal activities

The organs responsible for preventing money-laundering include the Procurator General's Office, the Ministry of the Interior, the National Security Service, the Department for the Prevention of Monetary and Tax Offences of the Procurator General's Office of the Republic of Uzbekistan, the State Tax Committee, the Committee on the Protection of the State Border of the Republic of Uzbekistan and the Ministry of Emergency Situations of the Republic of Uzbekistan.

The currency regulatory organs include the Central Bank, the Ministry of Finance, the State Tax Committee and the State Customs Committee of the Republic of Uzbekistan. In addition, the heads of organizations whose activities fall within the purview of article 243 of the Criminal Code of the Republic of Uzbekistan, are liable for the legalization of funds acquired through criminal activities.

Banks have divisions responsible for guaranteeing the security and protection of information designed to ensure safe banking activity.

The Republic of Uzbekistan does not currently have a special financial intelligence service. That function is, however, covered by the following:

- The Department for the Prevention of Tax and Monetary Offences of the Procurator General's Office, which is responsible for identifying, suppressing and preventing tax and monetary offences and for the collection, processing and analysis of information relating to foreign currency operations carried out in violation of the legislation (Decision No. 415 of the Cabinet of Ministers of the Republic of Uzbekistan of 28 November 2002);
- The Division of the State Tax Committee for the analysis of the turnover of money in bank accounts;
- Divisions responsible for guaranteeing the security and protection of information designed to ensure safe banking activity.

On matters relating to the prevention of money-laundering and the financing of terrorism, specialists from the relevant agencies of the Republic take part in seminars organized by international financial organizations, including the Joint Vienna Institute and the International Monetary Fund (IMF).

Moreover, specialists from Uzbekistan are being trained under the distance-learning programme of the World Bank, the World Bank Institute and IMF on the strengthening of action to prevent money-laundering and the financing of terrorism regimes.

Regulations relating to the circulation of financial resources

In accordance with Decree No. 837 of the President of the Republic of Uzbekistan of 20 April 1994, foreign currency controls for the export and import operations of individuals and legal entities are carried out by the Central Bank of the Republic of Uzbekistan and authorized banks, together with the State Tax Committee, the State Customs Committee and the Ministry of Finance. This regulatory enactment prohibits residents of the Republic of Uzbekistan from making settlements related to export and import operations with foreign partners through such firms' accounts with foreign banks.

When business entities (individuals and legal entities) open accounts in banks, a legal file of the client is opened in which documents identifying the client are kept. The legal file includes the following information on the client: a copy of the certificate concerning the State registration of the business entity indicating the personal statistical code and identification number of the taxpayer, and a notarized specimen of the signatures of the director and the head accountant and an impression of the stamp (Instruction No. 1080 on accounts opened in banks of the Republic of Uzbekistan of 10 November 2001). Individuals present a passport in person upon opening a bank account. The data on individuals are included in the agreement concluded on the bank account.

The provision of credit without sufficient indication of the ability of the debtor to repay the credit, or without sufficient analysis and verification, is an example of unhealthy banking activities (Decision No. 628 on dangerous and unhealthy banking activities of 11 February 1999, article 769 of the Civil Code of the Republic of Uzbekistan, Decree No. 2079 of the President of the Republic of Uzbekistan on measures to encourage foreign currency deposits by individuals of 23 September 1998, and Instruction No. 1080 on accounts opened in banks of the Republic of Uzbekistan (new version) of 10 November 2001.

The above-mentioned requirements apply to the activities of commercial banks in the Republic.

Data relating to operations and other transactions carried out by banks are kept for a period of time, as required by Decision No. 951 on the use of stored documents generated during commercial banking activities, of 26 July 2000.

A bill on the declaration of the entire yearly income of individuals, which is now under consideration by Parliament, provides for a mechanism to give organizations information about operations above a certain sum.

In the territory of the Republic of Uzbekistan, non-cash transactions are carried out only in the form of payment guarantees, letters of credit, collection and checks. Non-cash transactions may also be carried out through credit cards (Decision No. 1122 on non-cash transactions in the Republic of Uzbekistan (new version) of 15 April 2002).

In accordance with Decision No. 95 of the Cabinet of Ministers of the Republic of Uzbekistan on measures to improve the monitoring of the use of foreign currency funds in foreign trade operations, all import contracts are registered, either at authorized banks or at the territorial subdivisions of the customs service. The objective of introducing a requirement for the registration of all import contracts with those entities is to establish a means of monitoring and controlling the proper and timely fulfilment by the parties of their obligations under contracts concluded by them.

Order No. 245 of the Cabinet of Ministers of the Republic of Uzbekistan of 29 June 2000 on measures for the further development and strengthening of the commercial foreign exchange market prohibits the transfer of advance payments and payments for work (or services) into offshore zones.

In accordance with the established procedure for the management of foreign currency accounts by authorized banks:

1. Resident legal entities holding funds in foreign currency accounts may issue instructions to:

(a) Transfer funds abroad, under the established procedure for the export and import operations of account holders, corresponding to the aims and objectives of its authorized activity;

(b) Use funds for the payment of bank commissions and postal-telegraph expenses and for business trip expenses, including visa formalities;

(c) Pay or transfer funds, in the territory of Uzbekistan, in amounts corresponding to the purchase rate valid for the foreign currency on the date of the operation;

(d) Deposit funds into the authorized capital of an enterprise in another country, or for other purposes related to the movement of capital (with the permission of the Central Bank of the Republic of Uzbekistan);

(e) Use funds for the payment of loans, interest, dividends and other purposes, envisaged by the legislation in force.

2. Non-resident legal entities holding funds in foreign currency accounts may issue instructions to:

(a) Transfer funds abroad in a form acceptable to the bank;

(b) Make payments in foreign cash currency for business trip expenses, for export abroad;

(c) Pay or transfer funds, in the territory of Uzbekistan, in amounts corresponding to the purchase rate valid for the foreign currency on the date of the operation;

(d) Use funds for other purposes envisaged by the legislation in force.

3. Resident individuals holding funds in foreign currency accounts may issue instructions to:

(a) Transfer funds:

- to the account of a close relative residing permanently abroad, including those living temporarily there, provided that notarized copies of documents attesting to the close relationship are submitted (such as a passport, birth certificate or marriage certificate, etc.);
- to another country for the payment of alimony, provided that documentation attesting to the legitimacy of the payments is submitted;
- to another country on the basis of an invoice, bills or other documents made out in the name of the account holder and/or his or her close relatives, for education, medical care, patents and copyright, for the payment of the consular services of other States, for participation in competitions, exhibitions and contests and for expenses related to placement in employment contracts;
- to accounts in foreign banks that have been opened in the holder's name, with the permission of the Central Bank of the Republic of Uzbekistan;

(b) Use funds for payments in foreign cash currency (payment instruments in foreign currency), including for export abroad. Authorization for the export of foreign currency is issued in an amount determined in accordance with the legislation;

(c) Pay or transfer funds, in the territory of Uzbekistan, in amounts corresponding to the purchase rate valid for the foreign currency on the date of the operation;

(d) Use funds to pay commissions for operations carried out by authorized banks;

(e) Use funds for other purposes, envisaged by the legislation in force.

4. Non-resident individuals holding funds in foreign currency accounts may issue instructions to:

(a) Transfer such funds abroad in a form acceptable to the bank (bank transfer, cheque, etc.);

(b) Use funds for payments in foreign cash currency (payment instruments in foreign currency) including for export abroad. Authorization for the export of foreign currency is issued in an amount determined by the legislation;

(c) Pay or transfer funds, in the territory of Uzbekistan, in amounts corresponding to the purchase rate valid for the foreign currency on the date of the operation;

(d) Use funds to pay commissions for operations carried out by authorized banks;

(e) Use funds for other purposes envisaged by the legislation in force.

All monetary transfers and operations involving foreign currency are carried out through authorized banks, in accordance with the requirements of the legislation in force.

Under the Act on the Central Bank of the Republic of Uzbekistan of 21 December 1995, the Central Bank is the supervisory body for banking activity. It carries out audits and receives reports of banking activities.

In the event that banks or their branches violate the banking legislation and established financial regulations, the Central Bank of the Republic of Uzbekistan may levy a fine of up to 0.1 per cent of the minimum amount of the authorized capital, or restrict certain operations for a period of up to six months.

If the violations or operations carried out by the bank actually jeopardize the interests of investors and creditors, the Central Bank of the Republic of Uzbekistan may:

(a) Levy a fine of up to 1 per cent of the minimum amount of the authorized capital;

(b) Require that the bank take measures to restore its financial health, including modification of its asset structure, reduction of the bank's expenditure and cessation of the payment of dividends to shareholders, replacement of the directors of the bank or its branches, reorganization of the bank and liquidation of branches;

(c) Modify the financial requirements for the bank for a period of up to six months;

(d) Prohibit the bank from carrying out certain banking operations for a period of up to one year, and also prohibit it from opening branches for the same period;

(e) Establish a trust for the bank, according to the trustee the full powers of the bank's officials and shareholders, for the period required to restore the bank's financial health or to meet the requirements laid down by the Central Bank;

(f) Revoke the licence to carry out banking operations.

Under article 75 of the Civil Code and articles 8 and 12 of the Act of 14 April 1999 on non-governmental, non-profit organizations, a charity is required to observe the law, to use its assets for the purposes set out in its charter and to ensure that information on the use of its assets and funds is accessible. The charity is required to publish an annual report on the use of its assets.

Under article 53 of the Civil Code, legal entities can be liquidated by court order if they carry out activities prohibited by law.

Under current legislation, banking practices do not include alternative forms of fund transfer such as hawala.

To date, no suspicious transactions have been identified in the territory of the Republic of Uzbekistan.

International cooperation and conclusion

The Republic of Uzbekistan actively cooperates with the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001). Between 2001 and 2003, Uzbekistan submitted three national reports on measures that it had taken to combat terrorism in all its manifestations.

The Republic of Uzbekistan upholds the principle of adopting appropriate measures to prevent and combat terrorism. In accordance with Decision No. 16/02 of the Organization for Security and Cooperation in Europe (OSCE) on expanding the Code of Conduct Questionnaire with respect to the military and political aspects of security, Uzbekistan submits information to OSCE headquarters every year on measures that it has taken to prevent and combat terrorist activities.

Uzbekistan has recently prepared responses to the IMF questionnaire on the current status of efforts to combat money-laundering and the financing of terrorism. The questionnaire focuses mainly on the general legal basis for combating money-laundering and the financing of terrorism, the allocation of responsibilities among the State institutions involved, the role of bodies which oversee the financial sector and the relevant requirements for banks and other organizations in the financial and service sectors.

Information is exchanged with the services of foreign States within the framework of existing agreements and treaties.

A specialized inter-agency data bank has been established that encompasses virtually all aspects of anti-terrorist activities in Uzbekistan.

A working meeting was held between the competent authorities and those involved with the data bank to deal with the basic aspects of its operation and with technical matters.

To prevent persons who are identified by the National Central Office of Interpol in the Republic of Uzbekistan and other international organizations as members of terrorist organizations or involved in terrorist activities in the territory of other States from crossing the State border, Uzbekistan carries out checks at entry points along the State border and takes steps to identify such persons and stop them from entering and exiting the Republic of Uzbekistan.

The Republic of Uzbekistan is a party to both multilateral and bilateral treaties on matters relating to crime control and extradition with a number of States members of CIS (the Russian Federation, Kazakhstan, Tajikistan, Kyrgyzstan, Turkmenistan, Azerbaijan and the Republic of Moldova), as well as with many other States (Turkey, Germany, Italy, Austria, China, India, Pakistan, the Czech Republic, Bulgaria and others). Under those agreements, in the event of Uzbekistan's intelligence services or law-enforcement bodies receiving information concerning possible terrorist acts planned by international terrorist organizations or groups in any country in the world, the country concerned will immediately be informed of the possibility of a terrorist attack through the diplomatic channel or through cooperative arrangements between the services.

Questions arising in connection with the extradition of nationals of the Republic of Uzbekistan who have committed offences in the territory of Uzbekistan and have escaped abroad, or of foreign nationals who have committed offences abroad and are avoiding investigation in the territory of Uzbekistan, are determined in accordance with bilateral international treaties and agreements concluded with other States or, failing such agreements, through the diplomatic channel.

In accordance with article 7 of the Act on combating terrorism of 15 December 2000, the Republic of Uzbekistan is involved in international counter-terrorism cooperation with other States and their law-enforcement agencies and intelligence services, and with international organizations, on the basis of the United Nations counter-terrorism conventions, of multilateral conventions (including those of the Organization of Central Asian Cooperation and the Shanghai Cooperation Organization) and of bilateral conventions and agreements.

Within the framework of the Organization of Central Asian Cooperation, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan and the Republic of Uzbekistan have signed an agreement on joint activities to counter terrorism, political and religious extremism, transnational organized crime and other threats to the stability and security of the parties (Tashkent, 21 April 2000).

In August 2001, Uzbekistan ratified the Shanghai Convention on Combating Terrorism, Separatism and Extremism (signed on 15 June 2001).

At its summit meeting in Saint Petersburg in June 2002, the Shanghai Cooperation Organization adopted an Agreement on a Regional Anti-Terrorist Structure, a standing body for coordination and cooperation between the law-enforcement agencies and intelligence services of the parties in combating terrorism. The decision of the members of the Shanghai Cooperation Organization to establish an executive committee of the Agreement in Tashkent shows the importance that the Republic of Uzbekistan attaches to combating terrorism.

In Uzbekistan, under the auspices of the United Nations Office on Drugs and Crime, OSCE and others, international seminars are being conducted on countering the financing of terrorism and training and educational courses are given for members of law-enforcement agencies and intelligence services involved in combating terrorism.

In connection with the anti-terrorist operation in Afghanistan, Uzbekistan provided the international coalition forces with a military base in Khanbad and an airport in Termez for material, technical and logistical support for the forces of the United States, the United Kingdom, Germany, Italy and other International Security Assistance Force (ISAF) countries taking part in Operation Enduring Freedom.

In that context, Uzbekistan is in favour of strengthening the role of NATO in Afghanistan and welcomes the decision of the North Atlantic Council to extend the mandate of the ISAF forces. In that connection, it is prepared to extend logistical support to the Alliance to ensure the successful implementation of the ISAF mission. It must be noted that the relevant ministries and departments of Uzbekistan are currently working on that matter with the appropriate NATO divisions.

Given that the Security Council is not specifically mandated to combat terrorism and that the Charter of the United Nations does not set forth any clear objectives related to countering this modern-day challenge, Uzbekistan

believes that there is a need to give careful consideration to the introduction of amendments to the Charter, in particular in the section relating to the functions of the Security Council, to combat all forms of terrorism.

Uzbekistan believes that the speedy elaboration by the United Nations of a draft comprehensive convention on international terrorism and a draft international convention for the suppression of acts of nuclear terrorism would be a significant step towards enhancing the effectiveness of counter-terrorism activities.

The Republic of Uzbekistan will thus continue to make active efforts to prevent and combat terrorism and to promote closer international cooperation in that sphere.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 10 February 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of the Marshall Islands to the United Nations presents its compliments to the Chairman of the Committee and has the honour to refer to the latter's note dated 21 November 2003. The Permanent Mission has the honour to submit herewith the report of the Republic of the Marshall Islands pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 10 February 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

Republic of the Marshall Islands response to UN Security Council resolution 1455(2003)

I. Introduction

Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, and the threat they pose to the country and the region, as well as likely trends.

- There continues to be no evidence of any form of activities by Osama Bin Ladin, Al-Qaida, and the Taliban in the Republic. In spite of this, RMI continues to be vigilant in establishing the requisite safeguards to deny access by the groups identified in Resolution 1267 to its territories and banking system.

II. Consolidated List

2. How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

- Section 22 of the Counter-terrorism Act, 2002 forms the legal basis for seizure and detention of funds believed to have been derived from or intended for terrorism. Section 22 (2) focuses on funds belonging to entities designated as terrorist organizations by the United Nations Security Council.

  Periodic updated to the 1267 Committee's List are distributed to relevant authorities for incorporation into their CFT processes. Authorities that receive these updates include the Banking Commission, Immigration Division, Labor Division, Customs and Revenue Division, Social Security Administration, Airport Authority, Port Authority, and Public Safety.

3. Have you encountered any problems with implementation with regards to the names and identifying information as currently included in the list? If so, please describe these problems.

- RMI has not encountered any problems with implementation of the names and identification information pertaining to the list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions hat have been taken.

- No, RMI authorities have not identified any individuals or entities currently included in the 1267 Committee's List inside the territories of the Republic of the Marshall Islands.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List … to do so would compromise investigations or enforcement actions.

- The laws against terrorism in the RMI include every individuals or entities associated with Osama Bin Laden or members of the Taliban or Al-Qaida and everyone else not included in the List.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

- No one in the list has brought has any lawsuit against the RMI Government.

7. Have you identified any of the listed individuals as national residents of your country? Do you authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

- No one in the list is either a national or resident of the Republic of the Marshall Islands.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

- There are no Al-Qaida training camps in the Marshall Islands. Every port of entry has been instructed by Authorities not to permit anybody whose name is on the 1267 Committee's List. Any unauthorized non-resident will be subject to deportation immediately.

III. Financial and Economic Assets Freeze

9. Please describe briefly

- The domestic legal basis to implement the asset freeze required by the resolution above;

- Pursuant to Section 13 of the Counter-Terrorism Act 2002, the Attorney General shall take appropriate action…to identify, detect, freeze, seize and obtain forfeiture of any funds used or allocated for the purpose of committing any terrorism offense as well as the proceeds derived from such offenses.

- Any impediments under your domestic law in this context and steps taken to address them.

- The Counter-Terrorism Act 2002 is very detailed in terms of the duties and responsibilities of the Attorney General therefore we do not anticipate any impediments in the near future that would be able to dwarfed our efforts in implementing and enforcing our laws.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama in Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

- The purpose of the Counter-Terrorism Act 2002 is to implement the United Nations Security Council Resolution 1373 and other international obligations of the Republic of the Marshall Islands for the prevention, repression and elimination of terrorism, and for related matters

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or take the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any ... "due diligent" ... or "know your customs" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

- Under the Banking Amendment Act, 2000, financial institutions and cash dealers are subjected to a customer identification requirement which applies for both regular and occasional customers. Under the same Act, unanimous accounts are also prohibited and record keeping required. Thus the necessary structure for Know Your Costumer (KYC) and Customer Due Diligence (CDD) is in place at the industry level.

  Periodic Advisories issued by the Banking Commissioner upon receipt of any updates on the Committee's List instructs entities within the financial industry to search their customer databases for any matches and to continually be on the lookout for possible hits from the Committee's List. The Banking Commission, which is the sole supervisory authority within the financial industry undertakes on-site inspections to confirm compliance with these instructions and other aspects of the AML system. From the result of 11 on-sites undertaken thus far, compliance culture of the industry is commendable, especially with KYC and CDD. This is further complimented with high level of "local knowledge" (on customers).

  Failure to comply with the customer identification requirement may result in the imposition of civil money penalties for the non-complying institution.

12. Resolution 1455 (2003) calls on Member States to provide a comprehensive summary of frozen assets of listed individuals and entities. Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions

1267 (1999), 1333 (2000) and 1390 (2002). Please include to the extent possible, in each listing the following information.

- Identification(s) of the person or entities whose assets have been froze;
- A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of real estate property, and other assets);
- The value of assets frozen.

- To date, there have been no reported incidents wherein the Attorney General would have to exercise his mandated authority to freeze assets in any account with the financial institutions in the Republic

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama in Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amount unfrozen or released and dates.

- Same as above.

14. Pursuant to resolution 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities of for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including their territory. Please indicate the domestic legal basis, including brief description of laws, regulations and/or procedures in place in your country to control the movements of cash funds or assets to designated individuals and entities. This section should include a description of:

- The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.
- Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are review and evaluated.
- Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports reviewed and evaluated.
- Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.
- Restrictions or regulations, if any, applicable to alternate remittance systems such as – or similar to – "hawala", as well as charities, cultural and other non-profit organizations engaged in the … and disbursement of funds for social or charitable purpose.

- Section 18(2) of the Counter-Terrorism Act 2002 provides that the Marshall Islands shall cooperate in the prevention of terrorism by exchanging information to provide early warning of possible terrorism, in particular by:

(c) conducting inquiries, with respect to terrorists and members of terrorist organizations, concerning:

(i) the identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they engage in terrorism or are members of a terrorist organization;

(ii) the movement of funds linked to persons who engage in terrorism or are members of a terrorist organization.

Furthermore, Section 22(1) of the Act authorizes any law enforcement or customs officials of the Marshall Islands may seize and, in accordance with this section detain, any funds, that the officer or official has probable cause to believe were derived from or intended for terrorism, including, without limitation, funds being imported into or exported from the Marshall Islands.

(2) Funds of, or intended for, terrorist organizations shall be frozen, seized, and in accordance with this section detained, where the organization has been designated as a terrorist organization by the United Nations Security Council.

Requirements for the Financial Institutions

Section 70 (1) of the Banking Amendment Act 2000 states that, financial institutions and cash dealers shall, within 3 days of the transaction, report to the Commissioner all suspicious transactions, including but not limited to those which are ten thousand dollars or more or multiple transactions which, altogether, exceed ten thousand dollars if they are undertaken by or on behalf of any one person during any twenty-four hour period or, complex or unusual transactions, whether completed or not, and all unusual patterns of transactions, and otherwise significant but periodic transactions, which have no apparent economic or lawful purpose.

Furthermore, the above restrictions also govern movements of precious commodities such as gold, diamonds and other related items including alternate remittance systems that may cast reasonable suspicions so that the Attorney General and the Banking Commissioner would consider to fall under the provisions of the Banking Amendment Act 2000.

IV. Travel Ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

- Based on the RMI Counter-Terrorism Act 2002, no individuals, associations, businesses of all kind promoting terrorism are allowed in the Republic of the Marshall Islands. This includes those names of individuals, associations affiliating with Osama Bin Laden and the Al-Qaida groups that are on the Committee's List.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

- The Committee's List has been distributed to the appropriate authorities in the Government of the Republic of the Marshall Islands.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching Listed..using electronic means at all your entry points?

- As soon as an updated list is received, the receiving desk transmits the list immediately to the appropriate authorities within the governmental system. The use of electronic means to search for listed names is still limited at the present time. However, the governmental system has already taken the initiatives to implement changes that would lead to the modernization of the government information system in the very near future.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

- The authorities have not come across any of the listed individuals trying to enter the Republic of the Marshall Islands, thus far.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

- The list has been transmitted to the appropriate authorities. Our visa-issuing authorities have not identified any applicant whose name is on the List.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction…Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

- Pursuant to Section 13 of the Counter-Terrorism Act of the Republic of the Marshall Islands, the Attorney General shall take appropriate measures to disclose intelligence information relating to terrorism, terrorist organizations, transnational organized crime … illegal arms-trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials to competent law enforcement authorities of any foreign country that is a party to an international terrorism convention or a member of the Pacific Islands Forum. Furthermore, the Act also prohibits granting of refugee status or providing asylum or safe haven to any terrorist, or to any alleged offender.

21. What measures, if any, have you adopted to criminalize the violation of arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

- Section 18 of the RMI Counter-Terrorism Act prohibits preparations in the Marshall Islands for the perpetration of terrorism within or outside the territory of the Republic including illegal activities of persons and organizations that knowingly encourage, instigate, organize, finance or engage in terrorism. This includes above all, the illegal activities in violation of the arms embargo directed against Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, under Al-Qaida and entities associated with them.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

- According to Title 7 Marshall Islands Revised Code, Chapter 12, Section 13(1) states that every licensed dealer shall maintain records containing an inventory of firearms, dangerous devices, and ammunition or any of them received together with the name and address of the person from whom received, and the manufacturer, type and serial number of each firearm and dangerous device, the name and address of the person to whom transferred, the identification card number of such person, the manufacturer, type and serial number of the gun or dangerous device transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the Office of the Attorney General and his duly designated representatives.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al Qaida organization and Taliban and other individuals, groups, undertakings and entities associated?

- There is no manufacturing of weapons of all types in the Republic of the Marshall Islands. All weapons and dangerous devices are imported but under strict statutory requirements.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

- As provided under the provisions of the Counter-Terrorism Act, yes, the Republic of the Marshall Islands is obligated to share intelligence with other members nations of the United Nations, the Pacific Islands Forum and also the United States and to freeze accounts and assets or detain individuals, groups and associations that are linked to Osama Bin Laden and the members of the Al-Qaida organization, and any other criminal offenders.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement in the above sanctions regime.

- There is a great need to train the relevant authorities (the Banking Commissioner, Chief of Immigration, Chief of Labor, Chief of Custom and Revenue, Administrator of the Social Security System, Airport Authority, Director of Port of Entry, and the Police Commissioner) on the various UNSC resolutions such as 1373 and 1455 in order to upgrade their skills so that they can provide better enforcement of the RMI Counter-Terrorism Act including the UNSC resolutions (1373, 1455). There is little understanding of these mentioned UNSC resolutions and it would be beneficial if the UN could conduct regional workshops on such matters.

26. Please include any additional information you believe pertinent.

- One of the main reasons why the RMI has been late in submitting its reports (e.g. 1373 and 1455) is due to the lack of human personnel in the area of counter-terrorism. Counter-terrorism activities is a new field that has now required RMI, among other small island developing states, to comply with various international requirements in the fight against terrorism. It would be prudent for the UN to conduct information seminars on UNSC resolution 1373, 1455, etc. so that key representatives from relevant offices are able to gain a better and full understanding of the requirements of member states for them to implement such resolutions. In this case, the RMI certainly hopes that the UN will provide such information seminars in the near future.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 18 February 2004 from the Permanent Mission of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kyrgyz Republic to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to paragraph 6 of resolution 1267 (1999) and has the honour to transmit herewith the report of the Government of the Kyrgyz Republic pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

04-24457 (E) 010304 020304

Annex to the note verbale dated 18 February 2004 from the Permanent Mission of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report from the Kyrgyz Republic regarding implementation of Security Council resolution 1455 (2003)

In order to protect the Kyrgyz Republic's financial and banking system, to prevent the use of banks for money-laundering transactions and to comply with paragraph 2 of Security Council resolution 1390 (2002), lists of members of the Al-Qaida organization and the Taliban movement and other individuals, groups, undertakings and entities associated with them, corresponding to the list drawn up in accordance with Security Council resolutions 1267 (1999) and 1333 (2000), have been sent to Kyrgyzstan's State and commercial banks.

In addition, all financial institutions in Kyrgyzstan have been informed of the requirements attached to transactions in order to counteract the legalization of income obtained illegally and the financing of terrorism, of the need to make the activities of commercial banks more transparent, of the prohibition of the use of accounts for criminal ends, of the recommended list of suspicious financial transactions and of ways to recognize and expose unusual deals.

In order to implement paragraph 5 of Security Council resolution 1455 (2003), Kyrgyzstan has adopted legislation containing measures to prevent banks and bank branches from being used for fraud:

- Strict identity-verification requirements have been established for customers wishing to open accounts and persons wishing to perform certain types of banking transaction; to that end, temporary instructions for handling deposits have been issued;

- In order to prevent transactions for the legalization (laundering) of income obtained by criminal means, to help to combat the financing of terrorism and to make banking transactions transparent, a resolution laying down requirements for the definition of offshore entities or individuals and offshore centres was adopted. In addition, article 8 of the Act on Banks and Banking Activities has been amended and expanded (in the wording of Act No. 63 of 26 March 2003). It now contains an outright ban preventing persons registered in offshore centres (of which the National Bank of Kyrgyzstan is drawing up a list) from holding a stake in the capital of Kyrgyz banks.

A Bill on combating the financing of terrorism and the laundering of income obtained by criminal means has now been drafted.

The overall aim of the Bill is to defend the rights and legitimate interests of citizens, society and the State and the integrity of the financial system of Kyrgyzstan from criminal infringement by establishing legal arrangements to combat the financing of terrorism and the laundering of income obtained by criminal means. The provisions of the Bill are based on norms and accepted international principles for preventing the use of the financial system for such ends, and its main aim is to

establish a system of measures to prevent and combat the financing of terrorism and money-laundering.

The Bill devotes particular attention to such tasks as:

- Imposing stricter identification requirements for customers of organizations carrying out transactions with financial and other assets;
- Imposing an obligation to keep information and records relating to customer identification and to transactions with financial and other assets for five years;
- Imposing compulsory checks of deals and transactions involving States or territories suspected of illegally producing narcotics, or in which one of the parties holds an account with a bank registered in such a State or territory;
- Strictly prohibiting banks and other financial and credit institutions from opening anonymous bank accounts and from performing any transaction without identification of the other party to the transaction and/or the customer;
- Requiring banks and other financial and credit institutions to develop internal-monitoring rules to combat money-laundering and the financing of terrorism, and procedures for implementing those rules;
- Requiring the appointment of special officials responsible for enforcing rules and implementing procedures to combat money-laundering and the financing of terrorism;
- Introducing norms governing the ability of an authorized body to gain access to all databases and registers held by State bodies.

The Government approved the Bill on combating the financing of terrorism and the laundering of income obtained by criminal means through decree No. 818 of 2 December 2002, and decided to transmit the approved Bill to the Zhogorku Kenesh (parliament) for consideration. The Bill was considered by the Budget and Finance Committee of the Legislative Assembly of the parliament on 13 February 2003 and adopted by that Committee on 20 May 2003. The decision was taken to transmit the Bill to the Legislative Assembly for consideration.

The development of a Bill on combating the financing of terrorism and the laundering of income obtained by criminal means made it necessary to draft a Bill on amendments and additions to certain legislative acts of the Kyrgyz Republic (the Criminal Code and the Code on Administrative Responsibility) in order to improve accountability. The Government approved the Bill through a decree of 10 December 2002, and decided to transmit the approved Bill to the Zhogorku Kenesh (parliament) for consideration.

We should also point out that the new wording recently adopted by the Financial Action Task Force (FATF) has led the appropriate departments in Kyrgyzstan to consider what additional issues must be reflected in that Bill.

Rapid adoption of the Bill will be the best way of defending the financial and banking system against criminal encroachment. We believe this is one of the most important conditions for the successful development of Kyrgyzstan's economy.

The appropriate security services and law-enforcement structures of Kyrgyzstan have been taking practical and investigative steps within their areas of responsibility to follow up the situation connected with the issues raised in Security

Council resolutions 1455 (2003), 1333 (2000) and 1390 (2002). So far, no funds, other financial assets or economic resources of the Taliban movement or Al-Qaida have been found in Kyrgyzstan, no individuals belonging to those organizations have been detected entering or transiting through its territory and no cases of direct or indirect supply, sale or transfer to such individuals of weapons, ammunition or vehicles have been found.

In addition, on 15 April 2003, the President of the Kyrgyz Republic signed the Act on accession to the International Convention for the Suppression of the Financing of Terrorism. It entered into force for Kyrgyzstan on 1 November 2003.

Accordingly, the measures which Kyrgyzstan has taken against money-laundering and the financing of terrorism are in line with worldwide trends in that regard.